

LAWS OF FIJI

CHAPTER 207

SUGAR CANE GROWERS FUND AUTHORITY

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SUGAR CANE GROWERS FUND AUTHORITY

Act No. 9 of 1984

**AN ACT RELATING TO THE ESTABLISHMENT AND MANAGEMENT OF A
SUGAR CANE GROWERS FUND AUTHORITY**

[27 July 1984]

Short title

1. This Act may be cited as the Sugar Cane Growers Fund Authority Act.

Interpretation

2. In this Act unless the context otherwise requires -

"annual report" means the report referred to in section 16;

"appointment" includes re-appointment;

"appointed member of the Board" means a member of the Board appointed under paragraph 7 (1) (b) or (c);

"Board" means the Board of Management of the Sugar Cane Growers Fund Authority;

"Board of Trustees" means the Board of Trustees established under subsection 12 (1) of the former Act;

"Chairman" means the Chairman of the Board;

"former Act" means the Sugar Cane Growers Price Support Fund Act;

"Fund Authority" means the Sugar Cane Growers Fund Authority;

"Select Committee" means the Standing Select Committee on Sugar constituted pursuant to Standing Order No. 65 of the Standing Orders of the House of Representatives adopted on 27 November 1970.

Establishment of Fund Authority

3.--(1) There is hereby established a Fund Authority by the name of the Sugar Cane Growers Fund Authority.

(2) The Fund Authority -

(a) is a body corporate;

(b) shall have a seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) The seal of the Fund Authority shall be kept in such custody as the Board directs and shall not be used except as authorised by the Board.

(4) All courts, judges and persons acting judicially, shall take judicial notice of the imprint of the seal of the Fund Authority appearing on a document and shall presume that the document was duly sealed.

Function

4.--(1) The function of the Fund Authority is to provide to sugar cane growers loans for all or any of the following purposes, namely -

(a) purposes which, in the opinion of the Board, will increase the production of sugar cane;

(b) purposes which, in the opinion of the Board, will improve efficiency in the planting, growing, harvesting and transportation of sugar cane;

(c) the carrying out of work which the Board considers necessary or desirable to rehabilitate farms, buildings and other installations damaged, destroyed or affected by floods, cyclones, droughts or other natural disasters;

(d) the carrying out of work which the Board considers necessary or desirable to establish sugar cane farms and to construct buildings and other installations on those farms;

(e) the carrying out of work which the Board considers necessary or desirable for crop diversification;

(f) the making of provisions, to such extent as the Board considers necessary, for the personal family needs of growers during periods of financial distress or hardship;

(g) to enable cane growers to participate in commercial ventures which, in the opinion of the Board, are intended to benefit the cane growing industry.

(2) In performing its functions the Fund Authority shall treat with cane growers on a fair and equitable basis having regard to their needs and resources and the funds available for loan.

(3) Nothing in this section authorises or permits the Fund Authority to enter directly into the sugar cane growing industry.

Powers of Fund Authority

5.--(1) Subject to this Act, the Fund Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1), the powers of the Fund Authority include power to accept gifts, devises, bequests or assignments made to it whether on trust or otherwise, and whether unconditionally or subject to conditions and, if a gift, devise, bequests or assignment is accepted by the Fund Authority on trust or subject to conditions, to act as trustee or to comply with the conditions, as the case may be.

(3) Notwithstanding anything contained in this Act, any money or other property held by the Fund Authority upon trust or accepted by it subject to a condition shall not be dealt with except in accordance with the obligations of the Fund Authority as trustee of the trust

or as the person who has accepted the money or other property subject to the conditions, as the case may be.

(4) The Board may invest money standing to its credit and not immediately required by it in such stock, bonds, debentures or other securities, and on such terms and conditions, as it may determine.

Establishment and functions of Board

6.--(1) There is hereby established a Board by the name of the Board Management of the Sugar Cane Growers Fund Authority.

(2) The Board is, subject to and in accordance with any direction by the Minister under section **14**, responsible for the conduct and control of the affairs of the Fund Authority.

Constitution of Board

7.--(1) The Board shall consist of -

(a) the person appointed to be the Chairman of the Sugar Commission of Fiji under the Sugar Industry Act;
(Cap. 206.)

(b) a person appointed by the Minister;

(c) a person appointed by the Board of Directors of the Sugar Cane Growers' Council; and

(d) the person appointed to be the Chief Executive of the Sugar Cane Growers' Council under the Sugar Industry Act.

(2) Subject to section **9**, an appointed member of the Board holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment.

(3) The person appointed to be Chairman of the Sugar Commission of Fiji is Chairman of the Board.

Remuneration, etc., of members of the Board

8.--(1) A member of the Board shall receive from the Authority, in respect of his services as a member of the Board, such remuneration and allowances (if any) as the Minister may, after consultations with the Board, determine.

(2) Subsection (1) has effect subject to the Higher Salaries Commission Act.

(Cap. 2A.)

Termination of appointment

9.--(1) The Minister may terminate the appointment of an appointed member of the Board by reason of misbehaviour or physical or mental incapacity.

(2) The Minister may terminate the appointment of an appointed member of the Board if on 3 consecutive occasions the member, without leave of the Board, fails to attend a meeting of the Board.

(3) The Minister shall terminate the appointment of an appointed member of the Board if that member fails to comply with his obligations under section **11**.

Resignation

10. An appointed member of the Board may resign his office by writing, signed by him and delivered to the Minister.

Disclosure of interests

11.--(1) Subject to subsection (3), a member of the Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not -

(a) be present during any deliberation of the Board with respect to that matter; or

(b) take part in any decision of the Board with respect to that matter.

(3) Subsection (1) shall not apply where the subject matter of the discussion is of general application to all cane growers or to all members of a class of cane growers.

Meetings of the Board

12.--(1) Subject to this section, meetings of the Board shall be held at such times and places as the Board determines.

(2) The Chairman may at any time convene a meeting of the Board.

(3) At a meeting of the Board, 2 members of the Board constitute a quorum.

(4) The Chairman shall preside at all meetings of the Board at which he is present.

(5) If the Chairman is not present at a meeting of the Board the members present shall elect one of their number to preside at that meeting.

(6) A question arising at a meeting of the Board shall be decided by a majority of the votes of the members of the Board present and voting.

(7) The member of the Board presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a casting vote.

(8) If, by virtue of paragraph 11 (2) (a), the Chairman is required to leave a meeting of the Board, the members of the Board shall, before the Chairman leaves that meeting, elect one of the remaining members to preside during the absence of the Chairman.

(9) Subject to this section, the Board may regulate the conduct of proceedings at its meetings as it thinks fit, and shall keep minutes of those proceedings.

Delegation by Board

13.--(1) Subject to this section, the Board may, by resolution, either generally or as otherwise provided by resolution delegate all or any of its powers under this Act (except this power of delegation) to a member of the Board or to a member of the staff of the Fund Authority.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Board.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Board.

(4) A delegation of a power under this section -

(a) may be revoked by resolution of the Board (whether or not constituted by the persons constituting the Board at the time the power was delegated);

(b) does not prevent the exercise of the power by the Board; and

(c) continues in force notwithstanding a change in the membership of the Board.

(5) Where, under this Act, the exercise of a power or function by the Board is dependent upon the opinion, belief or state of mind of the Board in relation to a matter and that power or function has been delegated in pursuance of this section, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

(6) A certificate signed by the Chairman stating any matter with respect to the delegation of a power under this section is *prima facie* evidence of that matter.

(7) A document purporting to be a certificate mentioned in subsection (6) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

Directions by Minister

14.--(1) The Minister may, after consultation with the Select Committee, and such other persons as the Select Committee may determine, give directions in writing to the Board with respect to the exercise of its powers or the performance of its functions.

(2) The annual report of the Fund Authority shall set out all directions given by the Minister under this section.

Exemption from income tax, stamp duty, etc.

15.--(1) The Fund Authority is not subject to income tax.

(2) No stamp duty is payable in respect of an instrument securing a loan made by the Fund Authority under this Act.

(3) No registration fee is payable in respect of the registration of an instrument securing a loan made by the Fund Authority under this Act.

Annual Report

16.--(1) The Board shall, as soon as practicable after each 31 December, prepare and submit to the Minister a report of the operations of the Fund Authority during the year that ended on that date, together with financial statements in respect of that year in such form as the Minister responsible for financial matters approves.

(2) Before submitting financial statements to the Minister under subsection (1), the Board shall submit them to an auditor appointed by the Minister responsible for financial matters, who shall report to the Minister -

(a) whether, in his opinion, the statements are based on proper accounts and records;

(b) whether the statements are in general agreement with the accounts and records;

(c) whether, in his opinion, the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Fund Authority during the year have been in accordance with this Act; and

(d) as to such other matters arising out of the statements, as the auditor considers should be reported to the Minister:

(3) The Minister shall cause copies of the report and financial statements submitted to him under subsection (1), together with a copy of the auditor's report submitted to him under subsection (2), to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

Security for loans

17.--(1) Subject to subsections (2) and (3), the repayment to the Fund Authority of money lent by the Fund Authority under this Act to a cane grower is a first charge on all proceeds due to him, or to any other person, on the sale of cane grown by him notwithstanding any written or other law, or any agreement between the cane grower and any other person.

(2) The repayment to the Fund Authority of money lent to a cane grower by the Fund Authority under this Act and secured under subsection (1) shall not take precedent to -

(a) the repayment of any advances or other payments of whatsoever nature made to the cane grower or on his behalf by the Fiji Sugar Corporation Limited pursuant to a contract of general application under the Sugar Industry Act or the master award under the Sugar Industry Act; or

(Cap. 206)

(b) the repayment of money lent to the cane grower pursuant to the Loans (Cane Crop Rehabilitation Scheme) Act.

(Cap. 208.)

(3) Subsection (1) shall not apply except to a loan -

(a) of \$1,000 or less;

(b) repayable, in the normal course of events, over a period of 10 years or more; and

(c) bearing interest at an annual rate of 8% or less,

and which does not provide for further advances or for increases in the rate of interest beyond an annual rate of 8% but is otherwise on terms and conditions normally applicable to loans in their repayment.

Transfer of Fund

18. There is hereby transferred to the Fund Authority all moneys and other assets standing to the credit of the Sugar Cane Price Support Fund established under the former Act.

Transfer of Assets and liabilities of Board of Trustees

19. All real and personal property vested in the Board of Trustees immediately before the commencement of this Act is hereby vested in the Fund Authority, and all rights, obligations and liabilities of the Board of Trustees subsisting immediately before the commencement of this Act are hereby made rights, obligations and liabilities of the Fund Authority*.

* See Legal Notice 106 of 1984.

Repeal

20. The former Act and all subsidiary legislation made under it are repealed.

Transitional provision

21.--(1) Notwithstanding subsection 7 (1)-

(a) the Independent Chairman appointed under section 3 of the Sugar Industry Act shall continue to be Chairman of the Board until a Chairman of the Commission of Fiji has been appointed under the Sugar Industry Act;

(Cap. 206.)

(b) the person appointed by the Minister under paragraph 11 (1) (c) of the former Act shall be deemed to have been appointed under paragraph 7 (1) (b) of this Act for a term ending on the same date as his appointment would have ended under the former Act; and

(c) the person appointed by the Minister under paragraph 11 (1) (b) of the former Act to represent cane growers shall be deemed to have been appointed under paragraph 7 (1) (c) of this Act.

(2) A loan granted by the Board of Trustees under the former Act and in existence immediately before the commencement of this Act shall, on that commencement, have the same security for repayment as the same loan granted by the Fund Authority would have had under section 17 if that loan had been granted immediately following the commencement of this Act.

Controlled by Ministry of Primary Industries